Forty six years ago a confused visitor drove onto one-way Grafton Bridge, and faced the frank comments of oncoming Auckland motorists.

He also faced four traffic charges but he was convicted on only one. It may have seemed a fortunate result. But although his counsel was only in his second year at the bar, Ted Thomas was not a man for half measures. I know all this because I heard the appeal. And in the good, Francis Bacon sense of the word, he produced a cunning argument: "How could there be both acquittals and a conviction", he claimed, "when all charges depended upon the same basic facts".

I reminded myself that I must act not only without fear but without favour. In the end, by a nose, eloquence won. I wondered whether Counsel was sufficiently grateful for this close-run victory. After listening to his over-generous comments I am left in doubt no longer.

Ted Thomas is a good and loyal friend. Today he has left me more than embarrassed. I am grateful indeed for his typical kindness and the compliment he has paid me.

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In 1966 I was surprised when asked to be Chairman of a Royal Commission to consider aspects of the injury problem in New Zealand. Forty-one years later I am even more surprised, not only to find myself mooching about but present at an occasion to mark the delivery of the Commission's Report.

Both the occasion itself, and the invitation to be here, carry for me an unusual and special compliment which I value greatly.
I hasten to add that Susan St John's beguiling suggestion that I should say something myself, is rather more than a compliment. It is a dangerous boost to the vanity of old age and a licence for reminiscence. So against the licence, I will put forward a few disparate memories; and then add a final word.

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First in my mind is the distant background - return from the reality of a world war, to the unreality of a legal profession allowing itself to be constantly embroiled in human problems of social welfare. Should some insurance company, not the true defendant, be obliged to provide a modicum of help for an injured plaintiff? And all was sifted by fleeting evidence and strained concepts, interesting enough for the law student, but less than edifying in practice. Or so I thought in those early days at the bar.

That, for me, was the beginning.

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I move forward to the Royal Commission, and the two loyal colleagues who joined me. Geoffrey Parsons was an accountant with a wide practice. He had numerous and important commercial interests. They included, the insurance world should know, appointment as a director of an international life insurance company. He had a warm, balanced, educated feeling for everybody.

At the time of Herbert Bockett's death, he was described by Nordmeyer as perhaps the most able public servant New Zealand had ever had. It was Bockett who persuaded Tom Shand, the gifted Minister of Labour, to set up the Royal Commission. He told me at one point that he had been troubled at the thought of some fuddy-duddy Judge becoming Chairman; and then concerned that he might have a tiger by the tail. It was, I thought, a pretty compliment.
Both Bockett and Parsons gave minute attention to every aspect of the comprehensive scheme. They have not been sufficiently remembered.

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It is important, I believe, that like work in the law courts, a public inquiry should move ahead with energy. So much is due to all who may be affected or interested. As well, lethargy leads to half-measures and timid second thoughts.

In the present case, time was needed to prepare submissions. So work and public hearings began on 1st November 1966, and continued until 7th December. In the new year, for 3 months, we tested our ideas overseas. In that time we interviewed no fewer than 158 people in 7 countries, including in London the leaders of the world-wide insurance companies. In essence they accepted there was little if any profit derived from injury insurance. And it became clear that it was their second tier officials who clung to such business. At this level of management the reasons were cash flow, despite the machinery needed to handle its many small details, and the premium cutting which took place in the hope it would lead to other and profitable areas of insurance.

Today I find it remarkable that all this is put aside: that there still seems some instinctive belief among sections of the business community, and even some commercially educated and able members of Parliament, that private insurance could profitably employ its resources in this area of social welfare.

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I should add that while overseas, despite the frenetic verbal achievement, we had our eyes open. In the fashionable ball-room of the Grand Hotel at Stockholm, we were able, to notice and approve the appearance of the first trouser suits worn by women anywhere. In England, that Easter, there were tolerant smiles when we correctly predicted that we had witnessed the very beginning, for women, of a world-wide revolution.
On return to New Zealand there were further public hearings. Then, as the Report took shape, Bockett and Parsons joined me at seven each morning, on all seven days of each week, to spend 2 or 3 hours considering the latest instalment. Eventually, at about midnight on the evening of 20 November 1967, the typescript was handed for delivery to the printer. It is something I remember because at 10 o'clock next morning a determined Chief Justice had me begin a two day action in Court. I felt that Richard Wild was risking a close friendship.

Finally, the printed Report was presented on a sunny Wednesday morning in Wellington precisely forty years five hours and forty minutes ago. Modestly I leave it to others to exclaim (of course with proper restraint) that from working start to final crossed 't', the task was done in 12 months and three weeks.

The Injury Report was formally presented to the recently appointed Governor-General, New Zealand-born Sir Arthur Porritt. He asked about and was given an idea of the proposals it contained. I have mentioned the sunny Wellington morning. His own reaction was not so summery. He was unimpressed. As we drove away from Government House we decided that long, over-cautious medical years in England had blunted what should have been a delighted New Zealand ability to savour the compelling purity of our proposals.

And here you will not mind if I smugly mention that tucked away are a few items which today are probably forgotten. We proposed that the wearing of seat belts should become compulsory, and farm tractors be fitted with safety frames. And we thought of common law wives of 2 years' standing. They deserved to be included with other non-earners, we remarked in 1967. Today, hard-working 'partners', the contemporary and rather more pleasant title, would certainly agree. I feel sure that
before long the new and dedicated Minister, Maryan Street, will say Amen to that.

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But I must confess to a mistake which divided the three members of the Commission for the first and only time. We had thought that unhappy applicants should have an appeal, not to some outside body but to the Board itself. For this reason my own legal background suggested that the Chairman should be a lawyer. On the other hand Bockett took the view that imagination and wide administrative experience was central to the role of any person who was to lead this new untried organization. When Parsons agreed with me, Bockett withdrew his opinion. But he had been correct.

Just as remedial legislation deserves to be construed beneficially by the Courts, so should the precept be applied to its implementation by any organ of the State responsible for its administration. Unfortunately the well-meaning lawyer who became the first Chairman, had little understanding of the need for the wide administrative decisions needed. His central belief was the tight control of payments. There was little attention to safety and rehabilitation. He found it difficult to delegate. And he failed to appreciate that it was quite anomalous to require levy income to be assessed against the causes of injury, to support injuries entirely unrelated to their cause. It is an insurance-type hangover in the Act which could have been amended if handled by the Commission at an early stage. It has given rise to dissension ever since.

Had I listened more carefully the legal qualification would not have been mentioned and it is likely that Bockett himself could have been persuaded to become the first Chairman.

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I must mention a few who have supported the Injury Report. At the outset are those two enlightened Ministers Shand and Hanan, and Prime Minister Holyoake
himself. Sir Geoffrey Palmer arrived on the scene in 1968, and has been beside me ever since. My distinguished fiend Professor Harold Luntz has been a generous advocate from the outset. You will see that one of his early papers is listed in the Report at page 212. I am delighted to see Alan Clayton here once again. The airlines have long been in competition for the conveyance of Professor Richard Gaskins back and forth across the Pacific. And my wise and old friend Professor Richard Madden has come here regularly from Australia.

I have time to mention only a few members from across the years of our legal profession: Frank Haigh, Maurice Casey, John White and his brother- in law Wild, Ted Thomas, Colin Aikman and Ken Keith, followed by Ross Wilson, Hazel Armstrong, Geoff McLay and many others. And almost from the beginning, and to its great credit, the Law Society itself.

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I must offer a tribute to Dr. Susan St John, Professor Rosemary Tobin, Dr. Grant Duncan and their colleagues who have thought it proper to remember this anniversary occasion, and for deciding that the two professions of law and economics should be involved together in this memorable symposium.

So now, at the conclusion of these disconnected remarks, I would like to add a brief word about the kind of laws we need and deserve, as we live together in a modern society.

For lawyers there is the constant need to weigh so-called human rights against all those individual responsibilities which jurisprudence defines as legal duties. To put the matter in another way, it is necessary to spell out the proper balance between self-interest, and what Lord Radcliffe once called 'neighbourly benevolence'. Then there are the wise men and women among our economists. With so many true professionals nearby I hesitate to speak of economic theory. But I suggest that John
Stuart Mill never felt that the purposes of a successful or a moral society would fall apart without obsessive concentration upon the profit motive, or regular increases in the Gross National Product.

My economist friend, Professor Hazledine, has defined the practical issue. "Decency, trust, behaving well", he has written, "are not just leisure-time activities, to be indulged in after the real work has been done: they are essential to work itself, to a prosperous and stable economic system."

I would add, it is the kind of message which enables a truly caring society to operate. In the end it all becomes a matter of fellow-feeling, and (may I say it) generosity of spirit.

I am glad that forty years ago we tried to anticipate that message as basic to the recommendations contained in the Royal Commission Report on "Compensation For Personal Injury In New Zealand".

O.W.
13 December 2007